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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,672	12/31/2003	William C. Hiscox	217604222003	1671
7590 William C Hiscox PO Box 672 Veradale, WA 99037			EXAMINER CHOI, FRANK I	
			ART UNIT 1616	PAPER NUMBER
			MAIL DATE 05/30/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/707,672

Applicant(s)

HISCOX, WILLIAM C.

Examiner

Frank I. Choi

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/31/2003.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-5,7-9,15 are rejected under 35 U.S.C. 102(b) as being anticipated by Pearce et al. (US Pat. 5,775,026).

Pearce et al. expressly disclose an attractant composition containing Z-9-tricosene, n-butyric acid and trimethylamine (Column 5, lines 13-19).

Claims 1,3, 5, 7,9,15 are rejected under 35 U.S.C. 102(b) as being anticipated by Warner et al. (US Pat. 5,008,107).

Warner et al. expressly disclose an attractant composition containing Z-9-tricosene, trimethylamine, indole and/or skatole and a suitable carrier (Claims 1-10).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warner et al. (US Pat. 5,008,107).

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Warner et al. disclose a fly attractant composition containing Z-9-tricosene, trimethylamine, indole and/or skatole and a suitable carrier (Claims 1-10).

Mulla et al. disclose an aqueous fly attractant composition having a pH of 5-8, preferably 6, adjusted by the use of a lower carboxylic acid, such as butyric acid and containing a tertiary amine, such as trimethylamine, ammonia, linoleic or oleic acid and indole or skatole, which can be used in liquid form or combined with a solid carrier, including egg powder (Column 1, lines 36-38, Column 2, lines 1-11, Column 3, lines 25-53).

Hennart et al. disclose a fly attractant composition containing a lure, such as cis-tricosene and an amino acid source, including pork and eggs, including egg powder (column 3, Column 4, lines 1-44).

SU 1262227 disclose granulated egg (Abstract).

Mitchell et al. disclose that flies are attracted to odors of animals and animal products and that liver homogenate stimulates feeding in flies (Pages 483, 484). An experiment is disclosed in which flies were fed given pork liver (Pages 485-488).

The prior art discloses the combination of Z-9-tricosene and trimethylamine as a fly attractant. The difference between the prior art and the claimed invention is that the prior art does not disclose the combination of the above with protein, a carboxylic acid, in a solution with another metabolite and a pH of 5-7. However, the prior art amply suggests the same as the prior art discloses fly attractants combined with proteins, such as eggs, for example egg powder, and pork, a granulated egg product, that flies feed on pork liver and the combination of trimethylamine and butyric acid in an aqueous solution having a pH of 6 which can be combined with a suitable substrate, such as egg powder. As such, one of ordinary skill in the art would

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have been motivated to combine Z-9 tricosene and trimethylamine with butyric acid to arrive at an aqueous solution having a pH of 6 and that the solution could be combined with an amino acid source, such as egg, egg powder, granulated egg, pork or pork liver, with the expectation that both the solution and the solution combined with the amino acid source would be effective as a fly attractant.

Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

#### *Conclusion*


A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a compressed schedule and may be reached Monday, Tuesday, Thursday, Friday, 6:00 am – 4:30 pm (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Johann R. Richter, can be reached at (571)272-0646. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank Choi  
Patent Examiner  
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September 27, 2007

  
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